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DONELAN, CLEARY, WOOD & MASER, P. C.

ATTORNEYS AND COUNSELORS AT LAW

SUITE 850

1275 K STREET, N. W.

WASHINGTON, D. C. 20005-4078

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July 5, 1994

18877

RECORDATION NO. 18877 FILED 1495

JUL 5 1994 - 10 19 AM

INTERSTATE COMMERCE COMMISSION

New Recordation No.

Total filing & cross index fee \$54.00

Dear Mr. Strickland:

On behalf of Industrial Investment Corporation, I submit for filing and recording under 49 U.S.C. § 11303(a) and the regulations promulgated thereunder, executed counterparts of a primary document, not previously recorded, entitled Railcar Security Agreement ("Agreement"), dated as of June 23, 1994.

The parties to the enclosed Agreement are:

Industrial Investment Corporation - GUARANTOR/MORTGAGOR
P.O. Box 706
Galion, Ohio 44833

Charter Financial, Inc. - SECURED PARTY/MORTGAGEE
444 Madison Avenue
New York, New York 10022

The said Agreement, among other things, acts to grant a security interest in the equipment listed in Exhibit A thereto by the Guarantor to the Secured Party.

The equipment covered by the instant Agreement is as identified in Exhibit A thereto.

A short summary of the Agreement to appear in the ICC Index is as follows:

"Grants security interest in 50 boxcars, M&B 9001-9050."

Please Cross Index this filing to/from Recordation No. 18853 and Recordation No. 18854.

Enclosed is a check in the amount of fifty-four dollars (\$54.00) of which \$18.00 is in payment of the filing fee and \$36.00 is in payment of the two cross index request.

Once the filing has been made, please return to bearer the stamped counterpart(s) of the document not required for filing purposes, together with the fee receipt, the letter from the ICC acknowledging the filing, and the two extra copies of this letter of transmittal.

Very truly yours,

Allen H. Harrison, Jr.
Attorney for Industrial Investment Corporation
for the purpose of this filing

Honorable Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, D.C. 20423
Enclosures
BY HAND

8376-020

counterparts of H. Harrison

JUL 5 1994 - 10 40 AM

RAILCAR SECURITY AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS RAILCAR SECURITY AGREEMENT is made as of this 23rd day of June, 1994, from INDUSTRIAL INVESTMENT CORPORATION, an Ohio corporation (the "Grantor") to CHARTER FINANCIAL, INC., a New York corporation (the "Secured Party").

WHEREAS, the Grantor is the owner of the railroad rolling stock described on Exhibit A attached hereto (the "Railcars") and has leased the Railcars to ATLANTIC AND WESTERN RAILWAY, Limited Partnership (the "Lessee") pursuant to a Railroad Equipment Lease dated as of April 1, 1994 (the "Lease"); and

WHEREAS, the Lessee has subleased the Railcars to Meridian & Bigbee Railroad Co. (the "Sublessee") pursuant to a Car Lease dated as of March 23, 1994 (the "Sublease"); and

WHEREAS, the Lessee, for valuable consideration, proposes to sell to the Secured Party all of the Lessee's right, title and interest in and to the Railcars, the Lease and the Sublease pursuant to the Chattel Paper and Equipment Purchase Agreement (Limited Recourse) dated June 27, 1994 (the "Purchase Agreement") between the Lessee and the Secured Party and the Lessee has further guaranteed certain payments to the Secured Party pursuant to the Guaranteed Payment Agreement dated as of June 27, 1994 (the "Guaranteed Payment Agreement") between the Lessee and the Secured Party; and

WHEREAS, the Grantor has consented to the Sublease, the Purchase Agreement and the Guaranteed Payment Agreement and will receive a valuable consideration upon payment of the purchase price from the Secured Party to the Lessee (or its assigns) under the Purchase Agreement; and

WHEREAS, in order to induce the Secured Party to enter into the Purchase Agreement and the Guaranteed Payment Agreement and to pay the purchase price for the benefit of the Lessee and the Grantor under the Purchase Agreement, the Grantor has agreed to enter into this Security Agreement and to grant the security interests provided for herein;

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and the Secured Party hereby agree as follows:

SECTION 1. Grant of Security Interest. As collateral security for the performance and payment of (i) all of the obligations of the Lessee under the Purchase Agreement and the Guaranteed Payment Agreement; (ii) all of the obligations of the Lessee under the Lease and under the Sublease; and (iii) all of the obligations of the Grantor under the Lease and under this Agreement (all of the foregoing obligations being herein referred to as the "Obligations") the Grantor hereby grants, conveys, mortgages, hypothecates,

pledges, sets over, transfers and assigns to the Secured Party, and grants to the Secured Party a continuing lien upon and security interest in:

- (a) the Railcars, together with all insurance policies and proceeds insuring any Railcars or any part thereof (including unearned premiums) and all accessions, additions, attachments or improvements to any of the Railcars, any substitutions therefor, and any replacements, rents, issues, profits, returns, income, and proceeds thereof and therefrom and products thereof; and
- (b) all of the right, title and interest (but none of the obligations) of the Grantor under the Lease and under the Sublease, including, but not limited to, the right to receive all rentals and other sums now or hereafter payable by the Lessee or the Sublessee thereunder.

All aforesaid property and the products and proceeds therefrom are herein individually and collectively called the "Collateral."

Except as expressly set forth in Section 2(b) hereof, and notwithstanding any other provision of this Agreement, it is understood and agreed by the Secured Party that the liability and undertakings of the Grantor under and pursuant to this Agreement are not personal or recourse obligations or undertakings of the Grantor but are to be satisfied solely out of the Collateral and the income and proceeds thereof, all such personal liability being hereby waived and released by the Secured Party, and its successors and assigns; provided, however, that the limitation on personal liability of the Grantor shall not derogate from the right of the Secured Party to proceed against the Collateral (upon and during the continuance of an Event of Default hereunder) for the full payment of all amounts due the Secured Party on account of this Agreement, the Purchase Agreement or the Guaranteed Payment Agreement.

SECTION 2. Representations and Warranties.

a. The Grantor hereby represents, warrants and covenants to and with the Secured Party that:

- (i) the Grantor is and will be the lawful owner of all of the Collateral, free of all security interests, liens, encumbrances and adverse claims whatsoever, other than the security interest granted hereunder, the rights of the Lessee under the Lease and the rights of the Sublessee under the Sublease, with full power and authority to execute this Agreement and to perform the Grantor's obligations hereunder and to subject the Collateral to the security interest hereunder;
- (ii) no consent or approval of any governmental body or regulatory authority or any other person was or is necessary to the validity of the security interest granted hereby;

- (iii) by virtue of the execution and delivery by the Grantor of this Agreement, when this Agreement shall have been filed with the Interstate Commerce Commission in accordance with 49 U.S.C. Section 11303, the Secured Party will obtain a valid and perfected first lien upon and security interest in such Collateral as security for the performance of the Obligations, prior to all other liens and encumbrances thereon and security interests therein;
- (iv) the security interest granted hereby is effective to vest in the Secured Party the rights in the Collateral intended hereby; and
- (v) the Grantor has not been known by any legal name different from the one set forth on the first page of this Agreement.

b. In the event that the representation set forth in Section 2.a (i) above proves to be incorrect in any material respect or in the event that any other representation of the Grantor proves to be untrue in any material respect as a result of the fraud of the Grantor, then, in any such case, and notwithstanding the provisions of the last paragraph of Section 1 hereof, the Grantor shall be personally liable to the Secured Party for any loss or damage sustained by the Secured Party and directly attributable to such misrepresentation or fraud.

SECTION 3. Covenants of the Grantor. The Grantor covenants with the Secured Party that:

- (a) the Grantor shall permit (at Grantor's expense) the proper filing of this Agreement with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303 and shall perform such other acts and things, all as the Secured Party may from time to time request, to establish and maintain a valid, perfected first security interest in the Collateral to secure the performance and payment of the Obligations;
- (b) the Grantor shall not allow or permit any of the Railcars to be used or maintained predominantly outside of the continental United States, provided that the Railcars can be used in Mexico or Canada, to the extent permitted by the Sublease;
- (c) the Grantor shall cause the Railcars to be kept numbered and marked with the identification numbers and marks set forth on Exhibit A to this Agreement and shall not change or allow the change of the identification number of any Railcar unless and until a statement of new number or numbers to be substituted therefor shall have been filed with the Secured Party and filed, recorded and deposited by the Grantor in all public offices where this Agreement shall have been filed, recorded or deposited;

(d) the Grantor will not transfer, assign, pledge or otherwise encumber any of its interests in the Railcars or the Lease;

(e) within five (5) days of the Secured Party's request, the Grantor shall furnish the Secured Party such information concerning the Grantor and the Collateral as the Secured Party may from time to time reasonably request;

(f) the Grantor shall keep (or shall cause the Lessee or the Sublessee to keep) each Railcar in good condition, order and repair in compliance with all applicable standards then in effect under the Interchange Rules of the Association of American Railroads (or any successor organization) and under any other governmental regulation or requirement;

(g) the Grantor shall fully and timely perform, comply with and observe all of the Grantor's covenants, agreements or obligations contained in the Lease; and

(h) the Grantor shall do such further acts and things, and execute and deliver to the Secured Party such additional conveyances, assignments, agreements and instruments, as the Secured Party may reasonably request in order to carry out the purposes of this Agreement or better to assure and confirm unto the Secured Party its rights, powers and remedies hereunder.

SECTION 4. Damage to or Loss of the Collateral; Requisition.

The Grantor assumes and shall bear the entire risk of loss or damage to the Collateral from any and every cause whatsoever. No loss or damage to the Collateral or any part thereof shall affect any obligation of the Grantor with respect to the Obligations and this Agreement, which shall continue in full force and effect.

SECTION 5. Events of Default. The occurrence of any of the following shall constitute an "Event of Default" under this Agreement:

(a) Failure of the Grantor to abide by any agreement or covenant contained herein, if such failure continues for a period of five (5) days after notice from the Secured Party to the Grantor specifying the default and demanding that the same be cured; or

(b) The occurrence and continuance of any default by the Lessee of any of its obligations under the Purchase Agreement, the Guaranteed Payment Agreement, the Lease or the Sublease; or

(c) A court shall determine that the Secured Party does not have a first-priority security interest in any of the Collateral enforceable in accordance with the terms hereof; or

(d) The bankruptcy or insolvency of any of the Grantor or the Lessee.

SECTION 6. Remedies upon Default. If an Event of Default shall have occurred and be continuing, the Secured Party may, at the sole discretion of Secured Party, without notice or demand (after the first notice has been submitted to the Grantor pursuant to the requirements of the last paragraph of this Section 6) and without limitation of any rights and remedies of the Secured Party under the Uniform Commercial Code then in effect in New York (but subject nevertheless to the then applicable requirements of law), take any one or more of the following steps:

(a) proceed to protect and enforce its rights by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against a violation of any of the terms hereof, or in aid of the exercise of any other right, power or remedy granted hereby or by law, equity or otherwise; and

(b) at any time and from time to time, with or without judicial process and the aid or assistance of others, enter upon any premises wherein any of the Collateral may be located and, without resistance or interference by the Grantor, take possession of the Collateral on any such premises, and require the Grantor to assemble and make available to the Secured Party at the expense of the Grantor any part or all of the Collateral at any place or time designated by the Secured Party; and remove any part or all of the Collateral from any premises wherein the same may be located for the purpose of effecting the sale or other disposition thereof; and sell, resell, lease, assign and deliver, grant options for or otherwise dispose of any or all of the Collateral in its then condition or following any commercially reasonable preparation or processing, at public or private sale or proceedings, by one or more contracts, in one or more parcels, at the same or different times, with or without having the Collateral at the place of sale or other disposition, for cash and/or credit, and upon any terms, at such place(s) and time(s) and to such persons, firms or corporations as the Secured Party shall deem best, all without demand for performance or any notice or advertisement whatsoever, except that the Grantor shall be give five (5) business days' written notice of the place and time of any public sale or of the time after which any private sale or other intended disposition is to be made, which notice the Grantor hereby agree shall be deemed reasonable notice thereof. If any of the Collateral is sold by the Secured Party upon credit or for future delivery, the Secured Party shall not be liable for the failure of the purchaser to pay for same and in such event the Secured Party may resell such Collateral. The Secured Party may buy any part or all of the Collateral at any public sale and, if any part or all of the Collateral is of a type customarily sold in a recognized market or which is the subject of widely distributed standard price quotations, the Secured Party may buy at private sale and may make payment therefor by application of all or part of the obligations.

Before taking any action against the Collateral under this Agreement upon the occurrence of an Event of Default, the Secured Party shall give the Grantor not less than 30 days prior written notice specifying the Event of Default. If the Grantor chooses to cure such Event of Default within 30 days after receipt of such notice, the Grantor shall be subrogated to all of the rights of the Secured Party in and to the Collateral on a pro rata basis to the extent of advances by the Grantor to cure such Event of Default.

SECTION 7. Application of Proceeds of Sale. The proceeds of any collection or sale of Collateral pursuant to Section 6 hereof, as well as any Collateral consisting of cash, shall be applied by the Secured Party as follows:

FIRST, to the payment of all reasonable costs and expenses incurred by the Secured Party in connection with such sale or otherwise in connection with this Agreement or any of the Obligations, including, but not limited to, all court costs and the reasonable fees and expenses of its agents and legal counsel, the repayment of all advances made by the Secured Party hereunder on behalf of the Grantor or the Lessee and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder;

SECOND, to the payment in full of the Obligations; and

THIRD, to the Grantor, its successors or assigns, or as a court of competent jurisdiction may otherwise direct.

SECTION 8. Secured Party's Right to Perform for Grantor. If the Grantor fails to perform or comply with any of its agreements contained herein or in the Lease, after providing Grantor with not less than five (5) days prior written notice specifying the action Secured Party proposes to take (unless immediate action is required, in the reasonable opinion of the Secured Party, to protect the Collateral or to avoid the imposition of a material cost or risk to the Secured Party, in which case no prior notice shall be required), the Secured Party may perform or comply with such agreement and the amount of any payments and expenses incurred by the Secured Party in connection with such performance or compliance, together with interest thereon at the rate of 12% per annum, shall be deemed a part of the Obligations and shall be payable by the Grantor upon demand.

SECTION 9. Reimbursement of the Second Party. The Grantor hereby agrees to reimburse the Secured Party, on demand, for all expenses incurred by the Secured Party in connection with the administration and enforcement of this Agreement and agrees to indemnify the Secured Party and hold the Secured Party harmless from and against any and all liability incurred by the Secured Party hereunder or in connection herewith, unless such liability shall be due to willful misconduct or gross negligence on the part of the Secured Party.

SECTION 10. Secured Party Appointed Attorney-in-Fact. The Grantor hereby appoints the Secured Party as its attorney-in-fact for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes hereof after the occurrence and during the continuance of an Event of Default, which appointment is irrevocable and coupled with an interest.

SECTION 11. No Waiver. No failure on the part of the Secured Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by the Secured Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law.

SECTION 12. Termination. This Agreement shall terminate when all of the Obligations have been fully paid and have expired, at which time the Secured Party (upon request of the Grantor) shall reassign and deliver to the Grantor, or to such person or persons as the Grantor shall designate, against receipt, such of the Collateral (if any) as shall not have been sold or otherwise applied by the Secured Party pursuant to the terms hereof and shall still be held by it hereunder, together with appropriate instruments of reassignment and release. Any such reassignment shall be without recourse to or warranty by the Secured Party and at the expense of the Grantor.

SECTION 13. Notices.

(a) All notices and other communications pursuant to this Agreement shall be in writing, either delivered in hand, by express delivery service or sent by certified or registered mail, postage prepaid, or sent by facsimile transmission, addressed as follows:

(i) if to the Grantor,

Industrial Investment Corporation
P.O. Box 706
342 Harding Way West
Galion, Ohio 44833
Attention: Philip S. Hesby, President
Facsimile No. (419) 468-1766

(ii) if to the Secured Party,

Charter Financial, Inc.
444 Madison Avenue
New York, New York 10022
Attention: Contract Administration
Facsimile No. (212) 593-9591, or

(iii) to such other addresses or by way of such other facsimile numbers as any party hereto shall have designated in a written notice to the other party hereto.

(b) Any notice or other communication pursuant to this Agreement shall be deemed to have been duly given or made and to have become effective when delivered to the party to which it is directed, or, if sent by express delivery service, by certified or registered mail, postage prepaid, or by facsimile transmission, and properly addressed in accordance with this Section 13, (i) when received by the addressee, or (ii) on the fifth Business Day following the day of the dispatch thereof, which ever of (i) or (ii) shall be the earlier.

SECTION 14. Further Assurances. The Grantor agrees to do such further acts and things, and to execute and deliver such additional conveyances, assignments, agreements and instruments as the Secured Party may at any time reasonably request in connection with the administration and enforcement of this Agreement or with respect to the Collateral or any part thereof or in order better to assure and confirm unto the Secured Party its rights and remedies hereunder.

SECTION 15. Binding Agreement; Assignments. This Agreement, and the terms, covenants and conditions hereof, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Grantor shall not be permitted to assign this Agreement or any interest herein or in the Collateral, or any part thereof, or otherwise pledge, encumber or grant any option with respect to the Collateral, or any part thereof, or any cash or property held by the Secured Party as Collateral under this Agreement.

SECTION 16. Survival of Agreement. All covenants, representations, warranties and agreements made by the Grantor herein shall be considered to have been relied upon by the Secured Party and shall survive the making by the Secured Party of the payment under the Purchase Agreement.

SECTION 17. Governing Law. THIS AGREEMENT AND THE RESPECTIVE RIGHTS AND OBLIGATIONS HEREUNDER OF THE PARTIES HERETO SHALL BE GOVERNED BY AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ITS CONFLICTS OF LAWS DOCTRINE; PROVIDED HOWEVER, THAT THE PARTIES SHALL BE ENTITLED TO ALL RIGHTS CONFERRED BY 49 U.S.C. SECTION 11303.

SECTION 18. Headings. Section headings used herein are for convenience only and are not to affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 19. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Security Agreement, or caused this Security Agreement to be duly executed, as of the day and year first above written.

INDUSTRIAL INVESTMENT
CORPORATION

By: Philip S. Hesby
Philip S. Hesby
Its: President

CHARTER FINANCIAL, INC.

By: Henry A. [Signature]
Its: PRES.

EXHIBIT A TO SECURITY AGREEMENT
DATED AS OF June 23, 1994
FROM
INDUSTRIAL INVESTMENT CORPORATION
TO
CHARTER FINANCIAL, INC.

DESCRIPTION OF RAILCARS:

OLD NUMBERS	NEW NUMBERS	OLD NUMBERS	NEW NUMBERS
17500	9001	17678	9026
17504	9002	17682	9027
17506	9003	17684	9028
17518	9004	17708	9029
17528	9005	17728	9030
17530	9006	17736	9031
17536	9007	17742	9032
17546	9008	17746	9033
17548	9009	17748	9034
17550	9010	17754	9035
17558	9011	17770	9036
17560	9012	17784	9037
17564	9013	17790	9038
17576	9014	17800	9039
17586	9015	17804	9040
17590	9016	17808	9041
17600	9017	17812	9042
17608	9018	17820	9043
17618	9019	17828	9044
17622	9020	17834	9045
17636	9021	17836	9046
17638	9022	17840	9047
17640	9023	17846	9048
17648	9024	17764	9049
17652	9025	17570	9050


STATE OF NEW YORK

COUNTY OF

NEW YORK

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)
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SS.

On this 29th day of June, 1994, before me personally appeared HENRY FROMMER to me personally known, who, being by me duly sworn, acknowledged before me that he is PRESIDENT of CHARTER FINANCIAL, INC. and that said instrument was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged before me that the execution of the foregoing instrument was the free act and deed of said corporation.


NOTARY PUBLIC

My Commission Expires:

GLADYS A.L. DELL'AQUILA
Notary Public, State of New York
No. 41-4507896
Qualified in New York County
Commission Expires February 28, 1996

STATE OF Delaware)
) ss.
COUNTY OF New Castle)

On this 23 day of June, 1994, before me personally appeared PHILIP S. HESBY, to me personally known, who, being by me duly sworn, acknowledged before me that he is the President of INDUSTRIAL INVESTMENT CORPORATION and that said instrument was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged before me that the execution of the foregoing instrument was the free act and deed of said corporation.

Christine M. Weaver
NOTARY PUBLIC

My Commission Expires:
CHRISTINE M. WEAVER
NOTARY PUBLIC
My commission expires January 27, 1995